

F. JAMES SENSENBRENNER, JR., Wisconsin
CHAIRMAN

HENRY J. HYDE, Illinois
HOWARD COBLE, North Carolina
LAMAR S. SMITH, Texas
ELTON GALLEGLY, California
BOB GOODLATTE, Virginia
STEVE CHABOT, Ohio
DANIEL E. LUNGREN, California
WILLIAM L. JENKINS, Tennessee
CHRIS CANNON, Utah
SPENCER BACHUS, Alabama
BOB INGLIS, South Carolina
JOHN N. HOSTETTLER, Indiana
MARK GREEN, Wisconsin
RIC KELLER, Florida
DARRELL ISSA, California
JEFF FLAKE, Arizona
MIKE PENCE, Indiana
J. RANDY FORBES, Virginia
STEVE KING, Iowa
TOM FEENEY, Florida
TRENT FRANKS, Arizona
LOUIE GOHMERT, Texas

JOHN CONYERS, JR., Michigan
RANKING MINORITY MEMBER

HOWARD L. BERMAN, California
RICK BOUCHER, Virginia
JERROLD NADLER, New York
ROBERT C. SCOTT, Virginia
MELVIN L. WATT, North Carolina
ZOE LOFGREN, California
SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
LINDA T. SANCHEZ, California
CHRIS VAN HOLLEN, Maryland
DEBBIE WASSERMAN SCHULTZ, Florida

ONE HUNDRED NINTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

<http://www.house.gov/judiciary>

January 6, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

We are writing to request that the Committee conduct hearings on the report issued today by the Justice Department Office of Inspector General (OIG) concerning the FBI's mishandling of the Brandon Mayfield case, by which they wrongly alleged that he was involved in the 2004 Madrid train bombings and held him as a material witness for two weeks. The OIG report was in response to letters written by Representative Scott, Senator Feingold, and myself earlier this year.

The Report raises real and serious questions regarding racial and ethnic profiling by the FBI, as well as their competence, veracity and use of PATRIOT Act powers. Among other things, the Report contains numerous findings that call into question the Justice Department's ability to impartially collect and analyze evidence related to terrorism. In its Report, the OIG noted that:

- Mr. Mayfield's Muslim religion was a factor in the FBI's examination of his fingerprints. "[W]e believe that Mayfield's representation of a convicted terrorist and other facts developed during the field investigation, including his Muslim religion, also likely contributed to the examiners' failure to sufficiently reconsider the identification after legitimate questions about it were raised." (Report at 12). In fact, "One of the examiners candidly admitted that if the person identified had been someone without these characteristics, like the 'Maytag Repairman,' the Laboratory might have revisited the identification with more skepticism and caught the error." (Report at 12).

The Honorable F. James Sensenbrenner, Jr.
Page 2
January 6, 2006

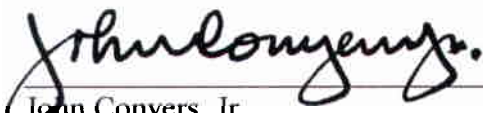
- The FBI offered inaccurate assertions to the court in support of its material witness and search warrant requests. "We found that the affidavits [filed by the FBI in support of the material witness and criminal search warrants] contained several inaccuracies that reflected a regrettable lack of attention to detail. In addition, we found the wording of the affidavits to be troubling in several respects." (Report at 19).
- The FBI fingerprint examiners were reckless in their duties. "[W]e concluded that the examiners committed errors in the examination procedure, and that the misidentification could have been prevented through a more rigorous application of several principles of latent fingerprint identification." (Report at 6). Similarly, the OIG dismissed the FBI's claim that it misidentified the fingerprint because it did not have the original evidence (i.e., the bag on which the print was found). "The OIG reviewed the evidence and concluded that, contrary to the FBI's claims, having access to the bag would not necessarily have prevented the [Latent Fingerprint Unit] from misidentifying Mayfield." (Report at 12).
- The PATRIOT Act "amplified" the effects of the misidentification. "[T]he increased information sharing allowed by the Patriot Act amplified the consequences of the FBI's fingerprint misidentification in the Mayfield case." (Report at 18).

We also are concerned about the fact that the OIG Report reveals that the Deputy Attorney General prohibited the OIG from conducting a thorough investigation of the Mayfield matter by limiting the reach of the OIG's authority under the PATRIOT Act to review misconduct. This task was relegated to the Department's Office of Professional Responsibility (Report at 5), even though we think it is clear that we intended the OIG provisions of the PATRIOT Act to be fully utilized to combat misconduct Department-wide.

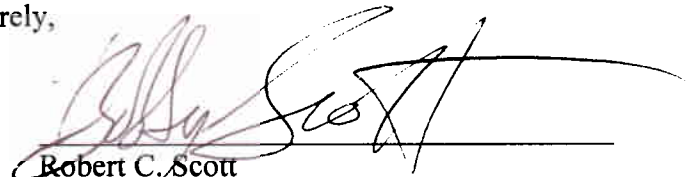
We would hope that we could conduct these hearings expeditiously upon our return, as many of the findings go directly to the issue of misuse of government power and the impact and construction of the PATRIOT Act.

Thank you for your consideration of this request, and we look forward to your response.

Sincerely,



John Conyers, Jr.
Ranking Member
Committee on the Judiciary



Robert C. Scott
Ranking Member
Subcommittee on Crime, Terrorism and
Homeland Security

Enclosure